IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2021 OF 1987

Syndicate Bank ...Plaintiffs

Versus

Anil Agencies & Ors. ...Defendants

Mr. Gautam Mehta, Advocate, i/b. M/s. Kanga & Co., for Plaintiffs.

None for Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 24TH AUGUST, 2006

P.C.

1. The suit is filed to recover an amount of Rs.1,37,005.20 together with interest @ 19.5% p.a. from the date of the filing of the suit.

2. The suit is based on the DATBD facility which is a bill discounting facility. The facility was routed through the Current Account. In effect, therefore, the position would be reflected in the Current Account. This is because no separate account was maintained in respect of the DATBD facility.

3. The Plaintiffs have filed the affidavit of one Ravi Srinivasa, the Senior Manager, in lieu of

examination-in-chief. There is no cross-examination. The Defendants are absent. The Plaintiffs have also tendered the compilation of documents which is taken on record and marked Exhibit "A" collectively.

4. That the facility was granted is clear. In fact, it is admitted. There is no dispute regarding the facility being routed through the Current Account.

5. There are several documents on record in each of which the Defendants have admitted their liabilities. It may be clarified here that the said facility was granted to Defendant No.1, which is a sole proprietory concern run by Defendant No.2 "Trust" of which the Defendant Nos.3, 4 & 5 were the Trustees. Defendant No.5 has expired. The suit against Defendant No.5 has, therefore, abated. In any event Defendant No.5 is sued only as Trustee and is not personally liable. The remaining Defendants have been sued in their capacity as guarantors having executed guarantees which are also marked in evidence.

6. There is correspondence that the Defendants merely requested the Plaintiffs to grant some concession in the interest.

7. In the circumstances, the entire claim of the Plaintiffs is established as his evidence inter-alia from the affidavit in lieu of examination-in-chief and the documents on record.

8. The suit is, therefore, decreed in terms of prayers (a) and (b).